

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES RANANDO STEWART, JR.,

Petitioner,

v.

PATRICK COVELLO,

Respondent.

No. 2:25-cv-00819-DC-CKD (HC)

ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS

(Doc. No. 8)

Petitioner Charles Ranando Stewart, Jr. is a state prisoner proceeding with counsel with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 12, 2025, Petitioner filed a motion for stay and abeyance under *Kelly v. Small*, 315 F.3d 1063 (9th Cir. 2002), overruled on other grounds by *Robbins v. Carey*, 481 F.3d 1143 (9th Cir. 2007), or in the alternative, for stay and abeyance under *Rhines v. Weber*, 544 U.S. 269 (2005), because his petition contained unexhausted claims pending state court review. (Doc. No. 2.) On April 14, 2025, Petitioner filed a first amended petition for writ of habeas corpus, in which he no longer pleads the three claims from his original petition that are unexhausted and pending state court review. (Doc. No. 7.)

On April 14, 2025, the assigned magistrate judge issued findings and recommendations recommending that Petitioner's request for a stay under *Kelly* be granted and that this action be

1 stayed while he exhausts state court remedies with respect to the three unexhausted claims . (Doc.  
2 No. 8.) The magistrate judge also recommended Petitioner's request for a stay under *Rhines* be  
3 denied as moot because his amended petition no longer contained unexhausted claims. (*Id.*) The  
4 findings and recommendations were served on Petitioner and contained notice that any objections  
5 thereto were to be filed within fourteen (14) days from the date of service. (*Id.* at 2.) On April 28,  
6 2025, Petitioner filed a response to the magistrate judge's findings and recommendations noting  
7 that he did not oppose the proposed recommendations. (Doc. No. 10.)

8 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a  
9 *de novo* review of the case. Having carefully reviewed the entire file, the court finds the findings  
10 and recommendations to be supported by the record and by proper analysis.

11 Accordingly,

- 12 1. The findings and recommendations issued on April 14, 2025 (Doc. No. 8) are  
13 ADOPTED in full;
- 14 2. Petitioner's motion for a stay pending exhaustion of state court remedies under  
15 *Rhines v. Weber*, 544 U.S. 269 (2005) (Doc. No. 2) is DENIED as moot;
- 16 3. Petitioner's motion for a stay pending exhaustion of state court remedies under  
17 *Kelly v. Small*, 315 F.3d 1063 (9th Cir. 2002) (Doc. No. 2) is GRANTED and this  
18 action is STAYED and held in abeyance pending exhaustion of state court  
19 remedies;
- 20 4. Petitioner is directed to file a status report within ninety (90) days of the date of  
21 entry of this order, and every 90 days thereafter, advising the court of what steps  
22 he has taken to exhaust his claims in state court;
- 23 5. Within thirty (30) days after the state court issues a final order resolving the  
24 unexhausted claims, Petitioner shall file a motion to lift the stay and, if he wishes  
25 to pursue newly exhausted claims in this federal habeas action, Petitioner shall also  
26 file a second amended federal petition setting forth all exhausted claims; and

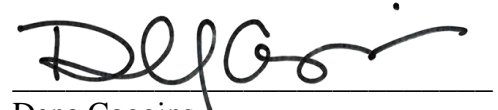
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1           6.       This action is referred back to the magistrate judge for proceedings consistent with  
2                   this order.

3  
4           IT IS SO ORDERED.

5   Dated:   **June 24, 2025**

  
Dena Coggins  
United States District Judge